

CCRB INVESTIGATIVE RECOMMENDATION

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|---|--|---------------------------|--|------------------------------------|--|
| Investigator: Raquel Velasquez | Team: Team # 1 | CCRB Case #: 201402707 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input checked="" type="checkbox"/> Injury |
| Incident Date(s) Friday, 03/14/2014 , Saturday, 03/15/2014 12:30 AM | Location of Incident: New York Penn Station | Precinct: 14 | 18 Mo. SOL 9/15/2015 | EO SOL 9/15/2015 | |
| Date/Time CV Reported Fri, 03/21/2014 10:37 AM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Fri, 03/21/2014 10:37 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |

| Subject Officer(s) | Shield | TaxID | Command |
|-------------------------|--------|--------|---------|
| 1. POM Andrew Lindsay | 01992 | 947177 | TB DT02 |
| 2. POM Francis Siracusa | 30868 | 934438 | TB DT02 |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|--|-----------------------------|
| A.POM Andrew Lindsay | Force: PO Andrew Lindsay struck § 87(2)(b) with a blunt instrument. | |
| B.POM Andrew Lindsay | Abuse: PO Andrew Lindsay threatened § 87(2)(b) with the use of force. | |
| C.POM Francis Siracusa | Abuse: PO Francis Siracusa refused to provide his name and shield number to § 87(2)(b) | |
| § 87(2)(g), § 87(4-b) | | |
| § 87(2)(g), § 87(4-b) | | |

Case Summary

On March 15, 2014, at approximately 12:30 a.m., § 87(2)(b) was seated in a lawn chair with a group of other homeless individuals in Penn Station in Manhattan when they were approached by PO Andrew Lindsay and PO Francis Siracusa, from Transit District 2, who told them to leave. § 87(2)(b) began gathering his belongings, while arguing with the officers. PO Lindsay then struck § 87(2)(b) with an object, causing § 87(2)(b) to lose his balance and fall (**Allegation A**). PO Lindsay allegedly stated, “Get up before I stomp your head in (**Allegation B**).” § 87(2)(b) got up, grabbed his belongings, and asked PO Lindsay and PO Siracusa for their names and badge numbers. PO Lindsay pointed to his badge and said, “It’s right here.” PO Siracusa allegedly replied, “No (**Allegation C**).” § 87(2)(b) walked away and was then detained by Amtrak police and issued a summons for disorderly conduct. (encl. I1) Amtrak police called an ambulance for § 87(2)(b) (complaint encl. D1-D2, CCRB statement encl. E1-E8). § 87(2)(g), § 87(4-b)

§ 87(2)(b)

§ 87(2)(b)

Mediation, Civil and Criminal Histories

This case was not mediation eligible. § 87(2)(b) has not filed a Notice of Claim and he does not have prior criminal convictions (encl. M1).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. C3).
- PO Andrew Lindsay has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. C1). In CCRB case number 201111029, which was closed as Complainant Uncooperative, PO Lindsay was the subject of a physical force allegation. The victim alleged that he was stopped by PO Lindsay for crossing train cars and was issued a summons. As the victim walked away, PO Lindsay allegedly kicked him in the back.
- PO Francis Siracusa has been a member of the service for ten years and there are no substantiated CCRB allegations against him (encl. C2).

Finding and Recommendations

Explanation of Subject Officer Identification

PO Lindsay and PO Siracusa acknowledged interacting with § 87(2)(b)

Allegation Not Pleaded

Because it is undisputed that § 87(2)(b) was seated in a lawn chair in Penn Station without plans to utilize the train services, a stop is not being pleaded.

Recommendations

Allegation A: Force- PO Andrew Lindsay struck § 87(2)(b) with a blunt instrument.

It is undisputed that § 87(2)(b) was seated in a lawn chair in Penn Station and refused to leave and that § 87(2)(b) and PO Lindsay had a verbal dispute.

§ 87(2)(b) stated that while arguing with the officers about being forced to leave, PO Lindsay struck § 87(2)(b) once in the right cheek. § 87(2)(b) was not sure what PO Lindsay struck him with, but believed that it was an abrasive object due to the scar left on his cheek (encl. E6). § 87(2)(b) lost his balance and fell to the ground. The Ambulance Call Report prepared confirmed that § 87(2)(b) had two quarter-size abrasions on his right cheek (see medical records).

According to PO Lindsay, § 87(2)(b) refused to leave so PO Lindsay grabbed the lawn chair to flip it. As § 87(2)(b) stood approximately seven feet away, “running his mouth,” PO Lindsay threw § 87(2)(b) lawn chair and said, “Take this too. Get out of here.” He threw the chair toward the hallway to get § 87(2)(b) to leave, but it hit § 87(2)(b) left shoulder. The chair did not hit § 87(2)(b) in the face and § 87(2)(b) did not fall to the ground. § 87(2)(b) gathered his belongings and walked away. § 87(2)(b) then dropped his belongings, which PO Lindsay referred to as “shit” during his CCRB interview, and was arrested by the Amtrak police for disorderly conduct. PO Lindsay maintained that he did not use force against § 87(2)(b) because he did not “physically” hit § 87(2)(b) with the chair or touch him, like “beat him up.” PO Lindsay just “hit him with the chair and that’s about it.” (encl. F4-F6). PO Siracusa denied that any force was used or that physical contact was made with § 87(2)(b) (encl. G5-G6)

According to Patrol Guide Procedure 203-11, only minimum necessary force will be used at the scene of a police incident. (encl. A1-A2)

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b)
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§ 87(2)(b)
§ 87(2)(b).

Allegation B: Abuse of Authority- PO Andrew Lindsay threatened § 87(2)(b) with the use of force.

Allegation C: Abuse of Authority- PO Francis Siracusa refused to provide his name and shield number to § 87(2)(b)

After § 87(2)(b) fell to the ground, PO Lindsay stated, “Get up before I stomp your head in.” § 87(2)(b) told PO Lindsay to go ahead. PO Lindsay did not reply and walked away. § 87(2)(b) got up and, as he gathered his belongings, he asked PO Lindsay and PO Siracusa for their names and badge numbers. PO Lindsay and PO Siracusa were standing between three and five feet away when § 87(2)(b) made the request. PO Lindsay pointed to his name plate; PO Siracusa said, “No.” § 87(2)(b) observed and memorized PO Lindsay’s name and part of his shield number.

PO Lindsay denied threatening to use force against § 87(2)(b) or saying, “Get up before I stomp your head in.” PO Lindsay corroborated that § 87(2)(b) requested his name and shield number while gathering his belongings. PO Lindsay did not provide the information verbally, but it was visible on his shield and said, “It’s right here.” PO Lindsay stated that § 87(2)(b) specifically asked PO Lindsay for his name and shield number, but did not specifically ask PO Siracusa for his, so PO Siracusa did not provide his information.

PO Siracusa did not recall any exchange of words or argument between him, PO Lindsay and § 87(2)(b). PO Siracusa did not recall PO Lindsay making the alleged threat of force and did not recall if § 87(2)(b) asked him or PO Lindsay for their names and shield numbers.

§ 87(2)(b), § 87(2)(g)
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§ 87(2)(b).

§ 87(2)(g), § 87(4-b)

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Team: _____

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| Investigator: | _____ | _____ | _____ |
| | Signature | Print | Date |

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| Supervisor: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |

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| Reviewer: | _____ | _____ | _____ |
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